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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/681,760	05/31/2001	Sean M. McCullough	VIGN1260-1	6413

44654 7590 06/13/2006

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EXAMINER
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PATEL, ASHOKKUMAR B

ART UNIT	PAPER NUMBER
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2154

DATE MAILED: 06/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/681,760

Applicant(s)

MCCULLOUGH, SEAN M.

Examiner

Ashok B. Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 3 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-11 and 13-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims 1-22 are subject to examination. Claims 3 and 12 are cancelled.

#### ***Response to Arguments***

2. Applicant's arguments with respect to claim 1 and 10 have been considered but are moot in view of the new ground(s) of rejection, however, Examiner would like to thank the Applicant for proving the following explanation "Additionally, the user identifier is associated with the user, such that when the same user "surfs" a network on the same or a different client computer the user identifier for this user identifier may be used to identify the user such that information related to the surfing user may be used to update or add to the user profile of the user. Thus, because a user identifier is associated with the user, as opposed to a particular machine, setting of a machine or geographic location, the user identifier may be used to update a user profile regardless of other aspects of how or where the user is using the network. Utilizing a user identifier associated with a user may allow user profiles to be generated for multiple users who access a network from the same machine, or a user who access the network from different IP addresses or geographic locations.", and "Thus, embodiments of the present invention may generate a user profile based on the user's interests by allowing a user to "surf" a network on a client computer while a remote location, such as a server computer responsible for routing user requests, determines information ("first data") relating to the surfing user, such as a user identifier, temporal information related to the user identifier, network addresses accessed and timestamps. This remote location may then store this information in a table to which it has access. The user may then be

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routed to any of the intended network destinations or addresses. Using this first data, specifically network addresses associated with the first data, category information corresponding to these network addresses can be accessed using second data which includes network addresses and corresponding category information. Based on the first user identifier, the category information obtained via accessing the second data, and at least some of the temporal information, a user profile can be generated. Consequently, information may be gathered on a user without any involvement of a client computer, including programs executing on the client computer whose purpose it is to collect user information and send this information to the remote location.

Additionally, embodiments of the present invention may allow the creation of a user profile based solely on the click stream (e.g. network addresses) generated by a user, without having to rely on information provided by the user, information at the network site specified by the address or information in an HUP stream."

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 9, 10 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eisen et al. (hereinafter Eisen) (US 2005/0261965 A1) in view of Legh-Smith et al. (hereinafter Legh-Smith)(US 6, 178, 419 B1)

**Referring to claims 1 and 9,**

Eisen teaches a method of profiling a user (Fig. 9) comprising:

accessing first data including a first identifier associated with the user (Fig. 9, element 906) , network addresses accessed by the user (Fig. 9, element 905, para. [0072] Also shown in FIG. 9 are a URL segment 905, a referral segment 906 and a credit card segment 907. URL segment 905 includes URL addresses, keywords corresponding to URL addresses and key codes associated with the keywords. [0073] FIG. 10 describes process steps for developing URL segment 905. Step S1001 obtains URL addresses with corresponding keywords. There are various ways to obtain URL addresses with keywords. For example, a seller could provide a list of URLs with associated keywords, or web sites associated with particular URLs can be manually visited and analyzed for determining keywords, or an automatic Internet crawler mechanism may be used to automatically obtain web sites associated with particular URL's and then analyzed for keywords."), and temporal information related to the user identifier and the network addresses (Fig. 9, element 903, para. [0070] FIG. 9 also shows a promotion segment 903 that includes information regarding promotional material sent to consumers. The promotion segment 903 includes consumer identification number, promotion identification number, date a particular promotion was sent, date the promotion was visited by the consumer, amount of time spent at the web site while visiting the promotion and any specific areas the consumer visited and key codes associated with key words corresponding to defined URLs."), wherein the first data is determined at a first location remote from the user (Fig.9, database 900, para.[0069]);

generating a user profile based at least in part on the first identifier and at least some of the temporal information ((Fig. 9, element 906, para, element 905,para.[0070],[0071],[0072]))

Eisen fails to teach accessing second data at a second location remote from the user and the network addresses, wherein accessing the second data further comprises sending at least some of the network addresses to the second location and receiving corresponding category information for each of the at least some network addresses, the corresponding category information including at least one meta tag, and accessing the second data comprises accessing the corresponding category information from a third-party source; and the corresponding category information includes meta tags for the network addresses, and generating a user profile including corresponding category information.

Legh-Smith teaches second data at a second location remote from the user and the network addresses, corresponding category information for each of the at least some network addresses, the corresponding category information including at least one meta tag, and accessing the second data comprises accessing the corresponding category information from a third-party source; and the corresponding category information includes meta tags for the network addresses (Fig. 4, "A suitable logical data arrangement for the database 112 is illustrated in FIG. 4. The available headings for the database 112 are stored in a first table 400. Each heading (HEAD1, HEAD2, etc) includes a reference to a category table 410 which lists the categories available to the user under that heading. Each category has two references: a first reference to a

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URL table 420 (category information for each of the at least some network addresses )and a second reference to a title and description table 430 (the corresponding category information includes meta tags for the network addresses). The title and description tables 430 hold the title and a brief summary of each page (having scores above a threshold, or the top n scores) which a user can access. The URL tables mirror the title and description tables by holding the URL for each accessible page. The URLs are used to retrieve the pages where required. (20) Once the data from step 346 has been arranged into a form suitable for loading into a database such as that described above, in step 360, the loading routines pass the data to the database 112 to be loaded into the database tables which have previously been created. Thus, the database 112 is populated in step 360. At this point, the database 112 is ready for use. (21) Once stored in the database 112, the data is accessed in a conventional manner using standard database scripts. The data is then presented to a user via a "front-end" user interface which can be made, for example, to resemble conventional search engines or Directories such as Yahoo.”)

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made to use Legh-Smith's teachings “a second reference to a title and description table 430 (the corresponding category information includes meta tags for the network addresses) in combination with the user profile of Eisen to generate a user profile including the user identifier (at least in part on the first identifier), corresponding category information, and temporal information because Legh-Smith's database including “a second reference to a title and description table 430” provides

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network addresses along with the corresponding category information which includes meta tags for the network addresses.

This would have been obvious, because as taught by Legh-Smith, col. 8, line 16-30, "In this way, for every subject of interest to the user, sample pages would be provided, keywords would be generated automatically and a category list would then be generated automatically. Alternatively, a computer-based thesaurus could be used to generate keywords for a single input category. Such a thesaurus could also be adaptive to include or discard certain words associated with certain categories (or vary a weighting associated with a word) on the basis of documents which were, at a later time, discarded from the database. At the extreme, software could be provided to determine from, for example, the last x pages of information accessed on the Internet by a user, the main subject interest areas for that user on the basis of which subjects areas most commonly arise. Then, the actual category list as well as the keyword list could be defined by the software and the ultimate database build without any human intervention at any stage. In response to this, the search engine searches its database to find the relevant keyword and returns data including URLs for pages containing the keyword. Search results typically also include, for each page found, a title and a brief summary of the contents of the page. From the displayed search results, a user is able to click on any of the URLs in response to which the search engine retrieves the page indicated by the URL."

It would have been obvious because the skilled artisans may realize that meta tags are used by search engines, such as Yahoo !, Altavista (accessing the second data



comprises accessing the corresponding category information from a third-party source) as Legh-Smith indicates in col. 8, line 40 – col. 9, line 6.

**Referring to claim 10,**

Claim 10 is a claim to a data processing system readable medium having code embodied therein, the code including instructions executable by a data processing system to cause the data processing system to perform methods of claim 1. Therefore, claim 10 is rejected for the reasons set forth in above paragraph for claim 1.

**Referring to claim 18,**

Claim 18 is a claim to a data processing system readable medium having code embodied therein, the code including instructions executable by a data processing system to cause the data processing system to perform methods of claim 9. Therefore, claim 18 is rejected for the reasons set forth in above paragraph for claims 1 and 9.

5. Claims 2, 11 and 19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eisen et al. (hereinafter Eisen) (US 2005/0261965 A1) in view of Legh-Smith et al. (hereinafter Legh-Smith)(US 6, 178, 419 B1) as applied to claim 1 above, and further in view of Alao et al. (hereinafter Alao) (US 20020108121 A1)

**Referring to claims 2, 19 and 20,**

As stated above in claim 1, the combination of Eisen and Legh-Smith teaches the method of claim 1, wherein generating the user profile comprises: creating a table that includes a first column for user identifiers including the first identifier, a second column for the corresponding category information, and a third column for the at least some of the temporal information.

However, both of these references fail to teach comparing data for the user within the table to existing profiles including a first profile, and associating the user with the first profile, and the method of claim 2, wherein comparing data for the user within the table to existing profiles includes performing click stream analysis, and wherein comparing data for the user within the table to existing profiles includes: applying data mining rules to the data for the user to determine characteristics of the user; and comparing the characteristics of the user to characteristics included in the existing profiles.

Alao teaches comparing data for the user within the table to existing profiles including a first profile, and associating the user with the first profile, and the method of claim 2, wherein comparing data for the user within the table to existing profiles includes performing click stream analysis, and wherein comparing data for the user within the table to existing profiles includes: applying data mining rules to the data for the user to determine characteristics of the user; and comparing the characteristics of the user to characteristics included in the existing profiles ( para. [0050], "The transaction log is also useful for mining a user's viewing and transaction data for generating cumulative user profiles or used for more sophisticated profiling techniques such as collaborative filtering. Viewers or clients are placed in one or more categories (e.g., "sports fan", "chef-French") based on viewer user profile. Categories enhance the network operator's ability to perform adaptive targeted advertising and broadcasting based on long term and short-term viewing and buying trends of the viewer/client.", and para.[0060], " Advertising Campaign management makes use of viewer data mining and

analytic systems in order to propose the best selection of products, advertisements and timing for broadcast. The Service Platform provides rule based systems to create `smart` advertising campaigns. The campaigns are adaptive based on user preferences, profiles, buying and viewing habits, and demographics. Based on information coming from the Ad Content database, Campaign Rules database, Service Manager, and Carousel Manager, the Ad Manager decides the best products to present to the viewer. It triggers the Carousel Manager to rebuild the broadcast catalog. The Ad Manager also interfaces with the Business Agents to propose advertising contents presented to the viewer while the viewer is on line.”)

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made to apply the techniques of Alao to the teachings of Eisen and Legh-Smith such that “clients are placed in one or more categories (e.g., “sports fan”, “chef-French”) based on viewer user profile.”, because “Categories enhance the network operator’s ability to perform adaptive targeted advertising and broadcasting based on long term and short-term viewing and buying trends of the viewer/client.”, and para.[0060], “ Advertising Campaign management makes use of viewer data mining and analytic systems in order to propose the best selection of products, advertisements and timing for broadcast. The Service Platform provides rule based systems to create `smart` advertising campaigns. The campaigns are adaptive based on user preferences, profiles, buying and viewing habits, and demographics. Based on information coming from the Ad Content database, Campaign Rules database, Service Manager, and Carousel Manager, the Ad Manager decides the best products to present

to the viewer. It triggers the Carousel Manager to rebuild the broadcast catalog. The Ad Manager also interfaces with the Business Agents to propose advertising contents presented to the viewer while the viewer is on line." As taught by Alao.

**Referring to claim 11,**

Claim 11 is a claim to a data processing system readable medium having code embodied therein, the code including instructions executable by a data processing system to cause the data processing system to perform methods of claim 2. Therefore, claim 11 is rejected for the reasons set forth in above paragraph for claim 2, 19 and 20.

**Referring to claims 21 and 22,**

Claims 21 and 22 are claim to a data processing system readable medium having code embodied therein, the code including instructions executable by a data processing system to cause the data processing system to perform methods of claims 19 and 20. Therefore, claims 21 and 22 are rejected for the reasons set forth in above paragraph for claims 2, 19 and 20.

6. Claims 4-8 and 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eisen et al. (hereinafter Eisen) (US 2005/0261965 A1) in view of Legh-Smith et al. (hereinafter Legh-Smith)(US 6, 178, 419 B1) as applied to claim 1 above,, further in view of Parekh et al. (hereafter Parekh) (US 6, 757, 740)

**Referring to claims 4,5,6,7 and 8,**

Keeping in mind the combined teachings of Eisen and Legh-Smith as stated above, both of these references fail to explicitly teach selecting a first marketing information regarding an item, wherein selecting is based at least in part on the user profile; and

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sending the first marketing information to the user, and the method of claim 4, wherein: selecting is performed by a network access provider; and the first marketing information includes a banner advertisement that is to be displayed near a periphery of a view, and the method of claim 4, wherein: at least one of the network addresses corresponds to a network site is owned or controlled by a company that sells the item; and the first marketing information comprises an offer to sell the item., and the method of claim 4, wherein: selecting comprises selecting the first marketing information and a second marketing information; and the method further comprises applying a filter, wherein: the second marketing information is filtered out and the first marketing information passes; and applying the filter is performed before sending, and the method of claim 1, further comprising selling the user profile.

Parekh teaches the method of claim 1, further comprising:

selecting a first marketing information regarding an item, wherein selecting is based at least in part on the user profile; and sending the first marketing information to the user (col.16, lines 46-57), and the method of claim 4, wherein: selecting is performed by a network access provider; and the first marketing information includes a banner advertisement that is to be displayed near a periphery of a view (col. 3, lines 36-41, "The web sites can selectively deliver content or advertising based on the geographic location of its visitors. The geographic location information can also be used in the routing of Internet traffic. A traffic manager associated with a number of web servers detects the geographic locations of its Internet visitors and routes the traffic to the closest server."), and the method of claim 4, wherein: at least one of the network

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addresses corresponds to a network site is owned or controlled by a company that sells the item; and the first marketing information comprises an offer to sell the item. (col.16, lines 29-65), and the method of claim 4, wherein: selecting comprises selecting the first marketing information and a second marketing information; and the method further comprises applying a filter, wherein: the second marketing information is filtered out and the first marketing information passes; and applying the filter is performed before sending. (col.16, lines 29-65), and The reference teaches the method of claim 1, further comprising selling the user profile. (col.14, lines 22-26, "The geographic information can also be analyzed to effectively market the site to potential Internet site advertisers and external content providers or to provide media-rich content to users that have sufficient bandwidth.", note: This implies that the user profiles are sellable.)

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made to incorporate the teachings of Parekh along with the combination of Eisen and Legh-Smith such that when the Eisen's consumer is looking for products the appropriate marketing information regarding the product based on the user's profile can be sent to the user.

**Referring to claims 13, 14,15,16 and 17,**

Claims 13, 14,15,16 and 17 are claims to data processing system readable medium having code embodied therein, the code including instructions executable by a data processing system to cause the data processing system to perform methods of claims 4,5,6,7 and 8. Therefore, claim 13 is rejected for the reasons set forth in above paragraph for claims 4,5,6,7 and 8.

### ***Conclusion***

**Examiner's note:** Examiner has cited particular columns and line numbers in the References as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashok B. Patel whose telephone number is (571) 272-3972. The examiner can normally be reached on 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A. Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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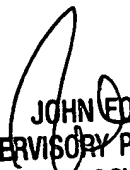
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